THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.7443 of 2006

Dt.17.4.2006

Between:

Patnala Satyanarayana and others … Petitioners

And

The Commissioner, Municipal Corporation,

Kakinada, East Godavari District and another

…Respondents

ORDER:

Petitioners question the action of the respondents in widening the roads by demolishing the petitioners' structures situated on the Main Road, Kakinada, Kakinada Municipal Corporation, East Godavari District, without issuing any notice and without paying any compensation as illegal and arbitrary.

Petitioners are the absolute owners of the schedule structures bearing Municipal Door Nos.37-1-1, 37-1-17, 37-1-10, 5-1-65- 28-1-52, 28-1-51, 33-1-3, 37-1-1/1, 37-1-39 and 5-1-51 respectively situated in the Main Road, Kakinada Municipal

Corporation, East Godavari District. While so, the first respondent Municipal Corporation has taken a decision on 6.1.2006 to widen the road from 60 feet to 80 feet and in the course of widening of the roads the land of the petitioners is required. It is stated that the respondent Corporation has already marked the effected portion for demolishing the structures of the petitioners without issuing any notice either under Section 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 or a notice under the provisions of the Land Acquisition Act, 1894.

Heard the learned counsel for the petitioner as well as the standing counsel on behalf of the respondents.

The learned counsel for the petitioner submits that the respondents without issuing any notice and without initiating any proceedings and without paying any compensation trying to demolish the building of the petitioner for widening of road. The learned counsel for the petitioner further submits that the action of the respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894 is utter violation of the principles of natural justice as well as Sections 146 or 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the property of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case, this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the property of the petitioner without following due process of law either under Sections 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

V.ESWARAIAH, J.

April 17, 2006.

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